

Notice of Allowability	Application No.	Applicant(s)	
	10/693,955	LAURIE ET AL.	
	Examiner	Art Unit	
	Humera N. Sheikh	1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 26 February 2007.
2. ☒ The allowed claim(s) is/are 1 and 3-8.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/935,550.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 2/23/07.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

**HUMERA N' SHEIKH
PRIMARY EXAMINER**

TC-1600

DETAILED ACTION

Status of the Application

Receipt of the Response to Non-Final Office Action, the Amendment, Applicant's Arguments/Remarks and the Terminal Disclaimer, all filed 02/26/07 is acknowledged.

Claims 1 and 3-8 are pending in this action. Claims 1 and 3 have been amended. Claims 2 and 9 have been cancelled. Claims 1 and 3-8 are allowed (now renumbered as claims 1-7, respectively).

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Terminal Disclaimer

The terminal disclaimer filed on 02/26/07 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of U.S. Patent No. 6,638,539 has been reviewed and is accepted. The terminal disclaimer has been recorded.

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Allowable Subject Matter

Claims 1 and 3-8 are allowed.

The following is an examiner's statement of reasons for allowance:

The pending rejections of record in the Non-Final Office Action filed 09/25/06 were: the 35 U.S.C. §101 statutory double patenting rejection of claims 1-9 and the non-statutory judicially created obviousness-type double patenting rejection of claims 1-9.

In an interview held on February 23, 2007, between Applicant's representative and the Examiner of record (H. Sheikh), the Examiner agreed to withdraw the 35 U.S.C. §101 statutory double patenting rejection of claims 1-9:

Therefore, the sole pending rejection of record was the non-statutory obviousness-type double patenting rejection of claims 1-9. Applicants, in their response filed 02/26/07, have submitted a Terminal Disclaimer, disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of U.S. Patent No. 6,638,539, thereby obviating the non-statutory double patenting rejection of claims 1-9. The Terminal Disclaimer has been reviewed and is accepted. The terminal disclaimer has been recorded.

Accordingly, Applicants have overcome the sole non-statutory double patenting rejection of record, thereby rendering the instant application in condition for allowance.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Humera N. Sheikh whose telephone number is (571) 272-0604. The examiner can normally be reached on Monday through Friday during regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, can be reached on (571) 272-8373. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Humera N. Sheikh

Primary Examiner

Art Unit 1615

April 01, 2007


HUMERA N. SHEIKH
PRIMARY EXAMINER

TC-1600

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